

REMARKS/ARGUMENTS

Claims 1-36 were in the application as filed. Claims 6, 7, 24, and 25 were previously withdrawn from further consideration pursuant to the Examiner's requirement for restriction.

Claims 1-5, 8-23, and 26-36 stand rejected. Claims 1 and 19 have been amended in this paper.

Applicant believes the amendments made herein add no new matter. Any amendment to the claims which has been made in this Amendment and Response, and which has not been specifically noted to overcome a rejection based on prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to be attached thereto. Reconsideration and reexamination of the application is respectfully requested in view of the amendments and the following remarks.

Rejection Under 35 U.S.C. §102(b)

Claims 1, 12, 13, 16, 18, 19, 30, 31, 34, and 36 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 4,488,778 to Polzer et al. The rejection is traversed.

Polzer '778 discloses an external vehicle rearview mirror 1 having a glass support plate 9 for supporting the reflective element 9.9, and a fastening plate 5.1 having a clamp ring 7. The clamp ring 7 is provided with four curved circumferentially distributed grooves 7.8. The glass support plate 9 has four spaced, T-shaped extensions 9.3 adapted for insertion into the grooves 7.8. When the glass support plate 9 is rotated relative to the clamp ring 7, the spaced extensions 9.3 are locked into the grooves 7.8, thereby fixing the reflective element 9.9 to the fastening plate 5.1.

The claimed invention is not anticipated under §102 unless each and every element of the claimed invention is found in the prior art. *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 231 USPQ 81, 90 (Fed. Cir. 1986). To anticipate, a single reference must teach each and every

limitation of the claimed invention. *Eolas Technologies Inc. v. Microsoft Corp.*, 399 F.3d 1325, 1335; 73 U.S.P.Q.2D (BNA) 1782 (Fed. Cir. 2005). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The rejection fails to satisfy these standards.

Independent claim 1 has been amended, and, in pertinent part, now calls for a mirror assembly for a motor vehicle, comprising a reflective element assembly, a mounting bracket, and an interlocking fastener assembly for removably attaching the reflective element assembly to the mounting bracket. The interlocking fastener assembly comprises a first array of interlocking fasteners attached to and extending away from a first one of the reflective element assembly and the mounting bracket, and a second array of interlocking fasteners attached to and extending away from a second one of the reflective element assembly and the mounting bracket. The second array of interlocking fasteners is configured to interlock with the first array and to secure the first one of the reflective element assembly and the mounting bracket to the second one of the reflective element assembly and the mounting bracket without rotation of the reflective element assembly relative to the mounting bracket.

Amended claim 1 is patentable over Polzer '778 because each and every element of amended claim 1 is not found in Polzer '778. Polzer '778 discloses four T-shaped extensions extending from the glass support plate (analogous to the reflective element assembly of claim 1). However, the glass support plate 9 must be rotated relative to the clamp ring 7 during assembly of the rear-view mirror to fix the reflective element 9.9 to the fastening plate 5.1. Polzer '778, col. 2, ln. 15-16, 55-63. Amended claim 1 calls for the second array of interlocking fasteners to secure the reflective element assembly to the mounting bracket without rotation of the reflective element assembly relative to the mounting bracket, which is not disclosed in Polzer '778.

Furthermore, the clamp ring (analogous to the mounting bracket) does not have fasteners which extend beyond the clamp ring. Rather, the clamp ring is provided with slots into which the T-shaped extensions are inserted and which do not extend beyond the clamp ring. The

Examiner utterly fails to address this limitation, and simply asserts that it is present in Polzer '778. This assertion is without merit. Amended claim 1 calls for interlocking fasteners which extend away from the mounting bracket and away from the reflective element assembly. This structure is not present in Polzer '778. Thus, amended claim 1 is patentable over Polzer '778.

Claims 12, 13, 16, and 18 depend, directly or indirectly, from amended claim 1, and are patentable over Polzer '778 for the same reasons. Applicant requests withdrawal of the rejection and the allowance of claims 1, 12, 13, 16, and 18.

Independent claim 19 has been amended and, in pertinent part, now calls for a motor vehicle comprising at least one mirror system comprising a reflective element assembly, a mounting bracket, and an interlocking fastener assembly for removably attaching the reflective element assembly to the mounting bracket. The interlocking fastener assembly comprises a first array of interlocking fasteners attached to and extending away from a first one of the reflective element assembly and the mounting bracket, and a second array of interlocking fasteners attached to and extending away from a second one of the reflective element assembly and the mounting bracket. The second array of interlocking fasteners is configured to interlock with the first array and to secure the first one of the reflective element assembly and the mounting bracket to the second one of the reflective element assembly and the mounting bracket without rotation of the reflective element assembly relative to the mounting bracket.

For the reasons discussed above, amended claim 19 is patentable over Polzer '778 because Polzer '778 does not disclose interlocking fasteners that extend away from both the mounting bracket and the reflective element assembly. Because claims 30, 31, 34, and 36 depend, directly or indirectly, from amended claim 19, they are patentable over Polzer '778 for the same reasons. Applicant requests withdrawal of the rejection and the allowance of claims 19, 30, 31, 34, and 36.

Claims 1-3, 8-17, 19-21, and 26-35 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 4,867,408 to Ozaki. The rejection is traversed.

Ozaki '408 discloses a vehicle mirror assembly 10 having a mirror plate 14 held in a mirror holder 15 with a pair of hook-shaped bendable bearing members 57 extending away from the mirror holder 15, and a holder plate 17 having a pair of studs 58 defining a slot therebetween adapted for receipt of the bearing members 57 therein. The mirror holder 15 is attached to the pivot plate 17 by the receipt of the bearing members 57 in the slots.

Amended claim 1 is patentable over Ozaki '408 because each and every element of amended claim 1 is not found in Ozaki '408. Ozaki '408 discloses two hook-shaped bearing members extending from the mirror holder. However, the holder plate does not have fasteners which extend beyond the pivot plate. Rather, the holder plate is provided with slots which do not extend beyond the holder plate into which the bearing members are inserted. Amended claim 1 calls for interlocking fasteners which extend away from the mounting bracket and away from the reflective element assembly. This structure is not present in Ozaki '408.

Furthermore, the bearing members and slots of Ozaki '408 do not constitute an array. The American Heritage[®] Dictionary of the English Language, 4th Ed., 2000, defines "array" as:

"An orderly, often imposing arrangement.... An impressively large number, as of persons or objects.... *Mathematics*...A rectangular arrangement of quantities in rows and columns, as in a matrix."

The Application uses "array" in a manner consistent with this definition. For example, the Detailed Description refers to "an ordered, regularly-spaced array" of fastening elements. *See, U.S. Patent Application Publication No. US 2004/0109249, para. 0029, ln. 4-5, 12.* The Drawings also illustrate the fastening elements organized in 10 or 11 rows and 10 or 11 columns. *Id., Figures 2, 4-6, 8.*

Only two sets of bearing members and two slots are disclosed in Ozaki '408, which is an insufficient number to constitute an array, both by definition and as used in the Application. Thus, amended claim 1 is patentable over Ozaki '408.

Claims 2, 3, and 8-17 depend, directly or indirectly, from amended claim 1, and are patentable over Ozaki '408 for the same reasons. Applicant requests withdrawal of the rejection and the allowance of claims 1-3 and 8-17.

For the reasons discussed above, the invention of amended claim 19 is patentable over Ozaki '408 because Ozaki '408 does not disclose interlocking fasteners that extend away from both the mounting bracket and the reflective element assembly, and does not disclose an array of fastening elements. Because claims 20, 21, and 26-35 depend, directly or indirectly, from amended claim 19, they are patentable over Ozaki '408 for the same reasons. Applicant requests withdrawal of the rejection and the allowance of claims 19-21 and 26-35.

Rejection Under 35 U.S.C. §103(a)

Claims 4, 5, 22, and 23 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Ozaki '408. The rejection is traversed.

The Examiner asserts that it would have been obvious to modify the plastic material of the mounting panel of Ozaki '408 to include a thermoplastic material or a gas-injected plastic material having a plurality of microscopic voids.

The standards for a finding of obviousness must be strictly adhered to. Simply citing one or more prior art references that illustrate different facets of the invention and then concluding that it would be obvious to combine the references to create the applicant's invention is wholly inadequate.

A claimed invention is unpatentable if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art....The ultimate determination of whether an invention would have been

obvious under 35 U.S.C. §103(a) is **a legal conclusion based on underlying findings of fact.**¹

A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field....Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher."

Most if not all inventions arise from a combination of old elements....Thus, every element of a claimed invention may often be found in the prior art....However, **identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention**....Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, **there must be some motivation, suggestion or teaching of the desirability of making the specific combination** that was made by the applicant....Even when obviousness is based on a single prior art reference, there must be a showing of a suggestion or motivation to modify the teachings of that reference.

¹ The underlying factual inquiries include (1) the scope and content of the prior art; (2) the level of ordinary skill in the prior art; and (3) the differences between the claimed invention and the prior art. *Graham v. John Deere Co.*, 383 U.S. 1, 17, 15 L. Ed. 2d 545, 86 S. Ct. 684 (1966).

The motivation, suggestion or teaching may come explicitly from statements in the prior art, the knowledge of one of ordinary skill in the art, or, in some cases the nature of the problem to be solved....In addition, the teaching, motivation or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references....The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art....Whether the Patent Office Examiner relies on an express or an implicit showing, **the Examiner must provide particular findings related thereto....Broad conclusory statements standing alone are not "evidence."**

In Re Werner Kotzab, 217 F.3d 1365; 55 U.S.P.Q.2d (BNA) 1313 (Fed. Cir. 2000)(citations omitted)(emphasis added).

The Examiner has failed to identify any motivation, suggestion, or teaching of the desirability of modifying Ozaki '408 to arrive at Applicant's invention. There has been no statement identified in Ozaki '408, there has been no discussion of the knowledge of one of ordinary skill in the art or the nature of the problem to be solved, there has been no identification of what the teachings of Ozaki '408, the knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to one of ordinary skill in the art as required for a showing of motivation. The Examiner has failed to provide any particular findings related to any motivation, suggestion, or teaching of the desirability of modifying Ozaki '408. Rather, the Examiner has simply relied upon "broad conclusory statements standing alone," which can only lead to the conclusion that the Examiner is simply relying on impermissible hindsight reconstruction of Applicant's invention.

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Even if the modification of Ozaki '408 were proper, the combination still would not reach Applicant's invention. As discussed above, Ozaki '408 does not disclose interlocking fasteners that extend away from both the mounting bracket and the reflective element assembly, and does not disclose an array of fastening elements, as called for in amended claims 1 and 19. Since claims 4 and 5 depend from amended claim 1, and claims 22 and 23 depend from amended claim 19, these claims also call for interlocking fasteners that extend away from both the mounting bracket and the reflective element assembly, and an array of fastening elements. Thus, claims 4, 5, 22, and 23 are patentable over Ozaki '408.

Applicant requests withdrawal of the rejection, and the allowance of claims 4, 5, 22, and 23.

CONCLUSION

For the reasons discussed above, all claims in the Application are allowable over the prior art of record. Nevertheless, Applicant is filing a Request for Continued Examination contemporaneously herewith pursuant to 37 C.F.R. §1.114. Prompt notification of allowability is respectfully requested. If there are any outstanding issues which the Examiner feels may be resolved by way of telephone conference, the Examiner is cordially invited to contact the undersigned to resolve these issues.

Respectfully submitted,

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